THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE G.BHAVANI PRASAD

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W.P.NO.26062 of 2001 And C.M.A.NO.1262 of 2002

24th July 2007

W.P.No.26062 of 2001

Between:

1. M/s.Sri Sai Sadan, Rep.by its Managing Partner, Meda Narasimhulu, Near Venugopalaswamy Temple, Puttaparthi, Ananthapur District.

And six others.

...PETITIONERS

AND

1. Transmission Corporation of A.P. Limited, (A.P.TRANSCO), Rep.by its Managing Director, Vidyut Soudha, Khairatabad, Hyderabad.

And three others.

...RESPONDENTS

C.M.A.No.1262 of 2002

Between:

1. M/s.Sri Sai Sadan, Rep.by its Managing Partner, Meda Narasimhulu, Near Venugopalaswamy Temple, Puttaparthi, Ananthapur District.

And six others.

...APPELLANTS

AND

The Chief Engineer, Commercial, Central Power Distribution Company of A.P. Limited, A.P. Transco, 3rd Floor, Singareni Bhavan, Red Hills, Hyderabad.

...RESPONDENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE G.BHAVANI PRASAD

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W.P.NO.26062 of 2001 And C.M.A.NO.1262 of 2002

COMMON JUDGMENT: (Per the Hon'ble Mr Justice G.Bhavani Prasad)

The Civil Miscellaneous Appeal is directed against the order of the A.P. Electricity Regulatory Commission dated 12.02.2002 in O.P.No.380 of 2001 dealing with grant of permission for installation of Captive Power Plant under Section 44 of the Electricity (Supply) Act, 1948 read with Section 21 (3) of the A.P. Electricity Reform Act, 1998. The Regulatory Commission rejected the application and directed the licensee to take suitable action in terms of Section 45 of the Electricity (Supply) Act, 1948 read with its proceedings dated 07.11.2001 for running DG set unauthorizedly.

The Writ Petition is directed against the letter dated 03.11.2001 from the Transmission Corporation of A.P., directing issuance of individual electric service connections.

Heard Sri D.V.Nagarjuna Babu, learned counsel for the appellants/petitioners and Sri V.Ajay Kumar, learned Standing Counsel for the respondents.

The statutory environment governing the dispute in question underwent a fundamental change with the advent of the Electricity Act, 2003 and Section 9 of the Electricity Act, 2003 authorizes any person to maintain and operate a captive generating plant and dedicated transmission lines. The provision also refers to providing open access for the purpose of carrying electricity from the captive generating plant through the grid, which shall be regulated in the same manner as the generating station of a generating company.

The orders under challenge in the appeal and the Writ Petition

have, therefore, become infructuous and on this change in law, it has already been held in identical cases that the orders under challenge do not survive and the appellants/petitioners are entitled to the statutory benefits conferred by the Electricity Act, 2003.

Pending the Civil Miscellaneous Appeal and the Writ Petition, interim orders were granted by this Court in favour of the appellants/petitioners and the appellants/petitioners shall continue to have the benefit of the interim orders notwithstanding the disposal of the appeal and the Writ Petition as infructuous.

Accordingly, the Civil Miscellaneous Appeal and the Writ Petition are disposed of as infructuous without costs and the appellants/petitioners are entitled to the benefit of the interim orders passed by this Court in the matters respectively in tune with the rights conferred on them by the Electricity Act, 2003.

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(B.PRAKASH RAO, J)

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(G.BHAVANI PRASAD, J)

24th July 2007

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